



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 15, 2013

Ms. Kasey Feldman
General Law Attorney
Public Utility Commission of Texas
P.O. Box 13326
Austin, Texas 78711

OR2013-17875

Dear Ms. Feldman:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 503701.

The Public Utility Commission of Texas (the "commission") received a request for maps of all Texas utility plants or the addresses and/or latitude and longitude of such plants.¹ You state the commission provided the requestor with a link to a directory of Texas utilities. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. In addition, you state release of some of the submitted information may implicate the proprietary interests of PLATTS. You inform us you have notified this third party of this request and of the company's right to submit arguments to this office stating why its information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of

¹As you have not submitted a copy of the clarified request for information, we take our description from your brief. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted representative sample of information.²

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. As part of the Texas Homeland Security Act (“HSA”), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. You assert the submitted information is confidential under section 418.181 of the Government Code, which provides “[t]hose documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.” *Id.* § 418.181. The fact that information may relate to a governmental body’s security concerns does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You assert, and we agree, Texas’s utility plants, which generate energy for the state of Texas, are critical infrastructure. *See id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). You explain the submitted information contains specific details about the network of electric generating plants in the State of Texas. You assert release of this information “could be useful to terrorists in attacking energy infrastructure and may present a risk to the safe and secure provision of electricity.” Based on the submitted arguments and our review of the submitted information, we find you have demonstrated release of the submitted information would identify the technical details of particular vulnerabilities of Texas public utilities to an act of terrorism. Thus, the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.

²We assume the “representative sample” of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 503701

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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